

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RICHMOND-MADISON COUNTY INDUSTRIAL
CORPORATION, AND THE CITY OF RICHMOND

COMPLAINANTS

VS.

KENTUCKY UTILITIES COMPANY
BLUE GRASS RURAL ELECTRIC COOPERATIVE

DEFENDANTS

CASE NO. 95-019

O R D E R

On January 17, 1995, the Richmond-Madison County Industrial Corporation and the city of Richmond, Kentucky (collectively referred to as "Complainants") filed a formal complaint against Kentucky Utilities Company ("KU") and Blue Grass Rural Electric Cooperative ("Blue Grass"), regarding electric service to a proposed industrial park in Madison County, Kentucky. The site is located in the adjacent electric service territories of Blue Grass and KU. The Complainants state that the proposed industrial park will be a new electric consuming facility and request the Commission to modify the territorial boundary, pursuant to KRS 278.018(1), so that the entire facility can be served by KU.

In response to the complaint, Blue Grass filed a motion to dismiss on the grounds that the relief requested would be advisory in nature because the Complainants do not own the site but have only an option to purchase it. Thus, Blue Grass argues that there can be no electric consuming facility located in two adjacent

certified territories at least until the option to purchase is exercised. Blue Grass also claims that the complaint is deficient because it fails to disclose the terms of the option to purchase and fails to name as respondents the present owners of the property.

Complainants subsequently amended their complaint by filing a copy of the purchase option and noting that the present owners have requested to intervene in this proceeding. In response, Blue Grass renewed its motion to dismiss and cited the Commission's decision in Case No. 9203, In the Matter of the Application of Richwood Industrial Development Corporation for Electric Service from Union Light, Heat and Power Company, as expressing a policy not to classify an industrial park as an electric consuming facility where the only known tenants are located exclusively within one service territory. KU asserts that the complaint is not premature and its adjudication would not result in an advisory opinion because the owner of an option to purchase property has standing to request a modification to the territorial boundary.

Based on the pleadings and being otherwise sufficiently advised, the Commission hereby finds that the Complainants, as owners of an option to purchase the property to be developed as an industrial park, have standing to request a modification of the existing territorial boundary. While the decision in Case No. 9203 states that a new industrial park will not be presumed to be an electric consuming facility merely because it lies in two adjacent certified territories, the determination of whether such a park


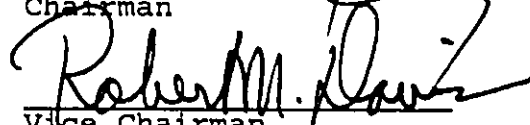
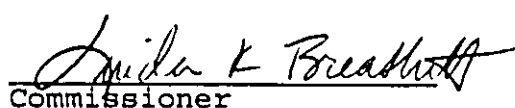
should be classified as a new consuming facility is an issue of fact to be determined by the Commission. As stated in that decision, "Each case must stand on its own facts."¹

In the present case, whether the proposed industrial park is a new electric consuming facility is a question of fact to be determined by the Commission at the conclusion of this proceeding, not its initiation. The Commission also notes that a copy of the option to purchase the property has now been filed and the present owners have been granted intervention.

IT IS THEREFORE ORDERED that Blue Grass's motion to dismiss be and it hereby is denied and Blue Grass shall file an answer to the complaint within 10 days of the date of this Order.

Done at Frankfort, Kentucky, this 24th day of March, 1995.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman

Commissioner

ATTEST:


Executive Director

¹ Case No. 9203, Order dated August 7, 1985, page 4.